

AG Contract No.: KR02-2053TRN  
ADOT ECS File No.: JPA 02-153  
Project: Red Mountain Fwy (202L)  
Section: Gilbert Road to Higley Road  
TRACS No.: H5299 01C  
Budget Source Item No.: 83101  
City of Mesa Project No.:

## INTERGOVERNMENTAL AGREEMENT

BETWEEN  
THE STATE OF ARIZONA  
AND  
THE CITY OF MESA

THIS AGREEMENT is entered into 7th June, 2004, pursuant to Arizona Revised Statutes, Sections 11-951 through 11-954, as amended, between the STATE OF ARIZONA, acting by and through its DEPARTMENT OF TRANSPORTATION (the "State") and the CITY OF MESA, acting by and through its MAYOR and CITY COUNCIL (the "City").

### I. RECITALS

1. The State is empowered by Arizona Revised Statutes Section 28-401 to enter into this agreement and has delegated to the undersigned the authority to execute this agreement on behalf of the State.

2. The City is empowered by Arizona Revised Statutes Section 48-572 and City Charter, Article I, Section 103, to enter into this agreement and has by resolution, a copy of which is attached hereto and made a part hereof, resolved to enter into this agreement and has authorized the undersigned to execute this agreement on behalf of the City.

3. The State has the Red Mountain Freeway, (202L), from Gilbert Road to Higley Road, hereinafter referred to as the "State Project", been constructed, which includes roadway, bridge, drainage and appurtenant features, with an original construction cost of \$57,961,300.00. The City requested the State include certain utility work, a reclaimed water line and other roadway related enhancements within the State Project. These items hereinafter referred to as the "City Project", the original construction cost of which is \$3,305,375.00, all at City expense, to benefit the City's construction of improvements located adjacent to the State Project. The City Project also includes improvements at Thomas Road, Greenfield Road and Higley Road. In addition to the original construction costs of the City Project, City agreed to fund State staff costs associated with development of City Project enhancements. During construction of the City Project several items were added to the City project by Change Order, at City's request. Change Orders to the City Project totaled \$364,214.00. These items are described in Exhibit's A, B1, B2, B3, C1 and C2, attached hereto and made a part hereof. The total cost of the City Project is \$4,587,268.00.

NO. 26872  
Filed with the Secretary of State  
Date Filed: 06/07/04  
Janice K. Brewer  
Secretary of State

By: Darryl D. Greenwald

4. The State's construction of the State Project will include, at no cost to the City, relocation of City utilities for which prior rights have been documented. It is understood that the State is acting as a third party on behalf of the City, administering construction of the City's facilities. At no time is the State to be considered the owner of, operator of, or locator for the City's facilities.

**THEREFORE**, in consideration of the mutual agreements expressed herein, it is agreed as follows:

## **II. SCOPE OF WORK**

### **1. The State:**

a. Upon execution of this agreement, submit an invoice to the City in the amount of \$4,587,268.00 for the costs associated with the City Project, (TRACS No.: H 5299 01C) as detailed in Exhibit "A", attached hereto and made a part hereof.

b. Acquired all necessary rights-of-way for the City Project.

c. Be responsible for actual cost associated with the relocation of certain City utilities where prior rights were documented.

d. Provided design plans, specifications and other such documents and services required for construction of the Project. Coordinated with the City, for review of the above said documents and incorporated review comments as appropriate.

e. Coordinated with the City for the review and clearance of the utility work and other roadway items related to the Project, such as traffic control plans, traffic signals, storm drain, structural inspections, and permits for right of way encroachments and improvements, as specified in the Special Provisions of the construction documents.

f. Hereby agreed to be authorized agent for the City in association with construction of the Project. On behalf of the City, called for bids of the Project. Prior to the award of the construction Project, the State notified the City the bid amount to be awarded, which includes 14% construction engineering and administration costs and project contingencies cost.

g. Awarded one or more construction contract(s) for the Project, administer same and made all payments to the contractor. Were responsible for any contractor claims for extra compensation due to delays or whatever reason attributable to the State.

h. Upon completion of the Project, and final reconciliation of project costs, remitted to or collect from the City, as the case may be, any difference between the amount paid by the City and the actual costs for the Project, including, but not limited to: design, construction and actual construction engineering and administration costs (not to exceed 14%), utilizing a detailed accounting provided by the Resident Engineer and the Project Manager for the Project.

i. Allowed, at no cost to the City, construction of a reclaimed water line in State's right-of-way. An intended purpose of the reclaimed water line is to provide irrigation water for the state's roadway landscaping.

j. Upon submission of a properly completed and acceptable State Right of Way Use Permit Application, approve and issue same Permit to City for work on City facilities within State Control of Access. State Right of Way Use Permit application shall be applied for and issued through the State's Phoenix Maintenance District Permits Office.

k. Upon completion of the State Project, the State shall assume responsibility for operation, maintenance and power for the State's facilities including freeway lighting.

2. The City:

a. Upon execution of this agreement and receipt of an invoice from the State, remit to the State an amount of \$4,587,268.00 for the City Project costs associated with the City's participation in the City Project (TRACS Nos.: H 5299 01C), as described in Exhibit A.

b. Accomplished City utility relocations which are outside the State Project.

c. Coordinated with the State, for the review of design plans, specifications and other such documents and services required for construction of the State Project. Provided review comments as appropriate. The City waived water development fees, and is responsible for any contractor claims for delay or extra compensation attributable to the City as reflected in a change order. The City reviewed all change orders which reflect additional compensation.

d. Coordinated with the State, for review and clearance of the utility work and other roadway items related to the State Project, such as traffic control plans, traffic signals, storm drain, structural inspections, and permits for right of way encroachment and improvements, as specified in the Special Provisions of the construction documents.

e. Designated the State as authorized agent for the City, for the construction and administration of the State Project.

f. Be responsible for all costs associated with the City Project as defined herein and shown in Exhibit A. Including design, construction and construction engineering and administration costs (construction engineering and administration costs not to exceed 14%) of the City Project.

g. Upon completion of the City Project, assume responsibility for operation and maintenance of and all electrical power for the street lights, City owned utilities and maintenance of the Salt River Project equipment underpass lighting and underpass surfacing and the slope paving at the South Canal Overpass. The City shall operate and maintain traffic signals constructed as part of the State Project. The City shall assume responsibility for operation, maintenance and power for street lights along City streets constructed as part of the State Project.

h. Take all required actions within its authority to ensure that drainage discharged from lands owned or regulated by the City, comply with any and all applicable requirements of the CLEAN WATER ACT or any other applicable discharge requirements.

i. At the time of delivery to the City of project red-line plans (as-built plans) by State, after completion of the City Project, the City shall assume Blue Stake responsibility for the City's reclaimed water line, potable water lines, sewer lines and gas lines and other City owned utilities, constructed by State as a part of the City Project and identified in Exhibits A, B1, B2, B3, C1 and C2.

j. Upon completion of the State Project, maintain and operate City facilities covered by this agreement and be responsible for the cost there from. Maintenance, operations and associated costs for the City's facilities covered by the agreement will be the responsibility of the City. It is understood that the State acted as a third party on behalf of the City, administering the construction of the City's new facilities. At no time is the State to be considered the owner of, or locator for, the City's new facilities. The State's contractor is the owner of, and has responsibility for locating any facilities he installs as prescribed by A.R.S. 40-360.21 through 40-360.29, until the time the facility is placed into service or until the State Project is accepted by the State.

k. Applied for a State Right of Way Use Permit for all work within the State's Control of Access. The Permit Application shall be requested and approved through the State's Phoenix Maintenance District Permits Office.

l. Upon completion and acceptance of the City Project, assume into the City street system the relocated portion of Thomas Road east of Val Vista, the relocated portion of Thomas Road east of Higley Road, the Val Vista cul-de-sac and the Greenfield cul-de-sac, as shown in Exhibits B1, B2 and B3.

m. Upon completion and acceptance of the City Project, assume responsibility for operation and maintenance of and all electrical power for the Reclaimed Water Line as shown in Exhibit C1 and C2.

n. Maintain prior rights on utilities which have been documented as having prior rights.

### **III. MISCELLANEOUS PROVISIONS**

1. This agreement shall remain in force and effect until completion of said State Project; provided, however, that this agreement, except any provisions herein for maintenance, which shall be perpetual.

2. This agreement shall become effective upon filing with the Secretary of State.

3. This agreement may be cancelled in accordance with Arizona Revised Statutes Section 38-511.

4. The provisions of Arizona Revised Statutes Section 35-214 are applicable to this contract.

5. This agreement is subject to all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12213) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36. The parties to this agreement shall comply with Executive Order Number 99-4 issued by the Governor of the State of Arizona and incorporated herein by reference regarding "Non-Discrimination".

6. Non-Availability of Funds: Every payment obligation of the State under this contract is conditioned upon the availability of funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by the State at the end of the period for which the funds are available. No liability shall accrue to the State in the event this provision is exercised, and the State shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

7. In the event of any controversy which may arise out of this agreement, the parties hereto agree to abide by required arbitration as is set forth for public works contracts in Arizona Revised Statutes Section 12-1518.

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8. All notices or demands upon any party to this agreement shall be in writing and shall be delivered in person or sent by mail addressed as follows:

Arizona Department of Transportation  
Joint Project Administration  
205 South 17 Avenue, Mail Drop 616E  
Phoenix, AZ 85007

City of Mesa  
City Manager  
P.O. Box 1466  
Mesa, AZ 85211-1466

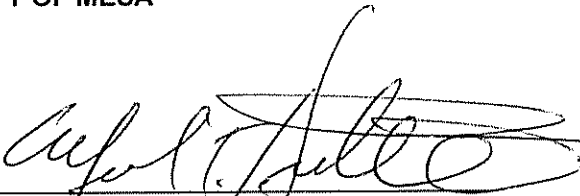
9. Attached hereto and incorporated herein is the written determination of each party's legal counsel that the parties are authorized under the laws of this state to enter into this agreement and that the agreement is in proper form.

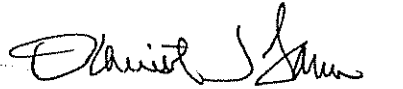
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IN WITNESS WHEREOF, the parties have executed this agreement the day and year first above written.

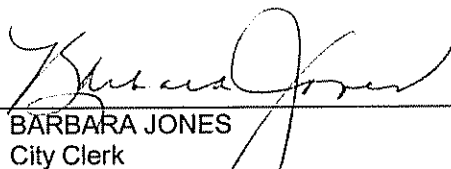
**CITY OF MESA**

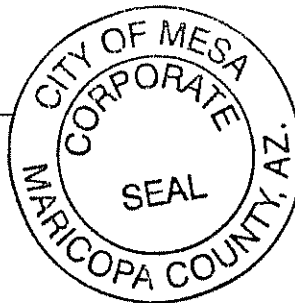
**STATE OF ARIZONA**  
Department of Transportation

By   
MICHAEL T. HUTCHINSON  
City Manager

By   
DANIEL S. LANCE, P.E.  
Deputy State Engineer

**ATTEST**

By   
BARBARA JONES  
City Clerk



# EXHIBIT A

JPA 02-153



## DESCRIPTION OF CITY OF MESA ENHANCEMENTS

### ROADWAY

The City of Mesa requested the project to construct additional road widening on the Higley and Greenfield Ramps along with the following cross streets: Thomas Road (3 locations), Val Vista Drive, Greenfield Road, and Higley Road.

#### **Thomas Road:**

- East of Higley—One half cost Widening from 24' to 68'
- East of Val Vista—Widening for bike lanes 6' Lt and Rt

At Thomas Road, the road widening consisted of three sections of widening. At Higley Road, Thomas Road was widened from 24 feet to 68 feet. Bike lanes were added to Thomas Road east of Val Vista Drive.

#### **Greenfield Road:**

- Additional NB to WB left turn lane
- Additional NB right turn lane

At Greenfield Road, the road widening consisted of an additional left turn lane for northbound traffic turning west providing dual lefts for this movement. A northbound right turn lane was also added. Additional bridge widening was required for the added NB to WB left turn lane. The City of Mesa will pay 50% for these roadway enhancements based on the bid unit costs as shown on the attached spreadsheet. The City of Mesa will pay 50% for the Greenfield and Higley bridge widenings based on one-half the bid unit costs as shown on the attached spreadsheet.

#### **Higley Road**

- Additional NB to WB left turn lane

At Higley Road, the road widening consisted of an additional left turn lane for northbound traffic turning west providing dual lefts for this movement. Additional bridge widening was required for the added NB to WB left turn lane.

The City of Mesa will pay 50% for these roadway enhancements based on the bid unit costs as shown on the attached spreadsheet. The City of Mesa will pay 50% for the Greenfield and Higley bridge widenings based on one-half the bid unit costs as shown on the attached spreadsheet.

## UTILITY CROSSINGS

The City of Mesa requested that the project construct new pipe sleeves for future use on the following cross-streets: Oak Street, Thomas Road (East and West), Val Vista Drive, Greenfield Road and Higley Road.

### **Oak Street**

- 12" Water
- 12" Sewer

The enhancements for Oak Street include: a sleeved 12-inch DIP waterline and sleeved 12-inch DIP sewerline crossing under the SR 202 Freeway from Right-of-Way to Right-of-Way.

### **Thomas Road West**

- 12" Water

The enhancements for Thomas Road West include: a 12-inch DIP waterline crossing under the freeway in sleeves and runs along the south side of the freeway corridor crossing under and terminating on the east side of the Lehi Road connection.

### **Thomas Road East of Higley Road**

- Replacement of 8" ACP to 12" DIP Water

The enhancement for Thomas Road East includes replacement of the existing 8-inch ACP waterline in the existing Thomas Road with a 12-inch DIP waterline along the new Thomas Road alignment. The design maintains the service connection off of 54<sup>th</sup> Street. The City will pay for 50% of the cost of the 12" waterline. During construction this was changed to a 16" DIP by Change Order #4. The City will pay for 100% of the cost of the change from 12" DIP to 16" DIP.

### **Val Vista Drive**

- 12" Water
- 8" Sewer
- 4" Gas

The enhancements for Val Vista Drive include: a 12-inch DIP waterline, a 8-inch DIP sewerline and a 4-inch PE gas in sleeves crossing under the SR 202 Freeway from Right-of-Way to Right-of-Way.

### **Greenfield Road**

- 8" Sewer
- 4" Gas

The enhancements for Greenfield Road include: an 8-inch DIP sewerline and extension of an existing 4-inch PE gas in sleeves crossing under the freeway. Sleeves will be provided for the future expansion of the waterline across the freeway.

### **Higley Road**

- 8" Sewer
- 4" Gas

The enhancements for Higley Road include: a 6-inch coated steel gas line and a 8-inch DIP sewerline.

The City of Mesa will pay for these utility enhancements based on the bid unit costs as shown on the attached spreadsheet.

## **RECLAIMED WATER LINE**

The City of Mesa Reclaimed Water Line begins near the intersection of Gilbert Road and McDowell Road. This project will connect to the existing 36-inch line constructed under the 202L Country Club to Gilbert Project and continue east along SR 202 along the south right-of-way/access control limits. The 36-inch line will end at Val Vista Road with a stubout to the south for a future extension. Val Vista 12-inch line will cross under the freeway and run along the north right-of-way line from Val Vista to Higley Road terminating on the east side at Higley Road. 8-inch stub-outs will be added to connect to the irrigation system for the SR 202.

The City of Mesa will pay for the Reclaimed Water Line based on the bid unit costs as shown on the attached spreadsheet.



## COST SUMMARY OF CITY OF MESA ENHANCEMENTS

City of Mesa Enhancements for Roadway Widening; Water, Gas and Sewer; and Reclaimed Water Line				
Cost				
Item	Design	Construction	Total	Description
1) Roadway Widening	\$9,162	\$183,230	\$192,392	Thomas Road: One half cost East of Higley Widening from 24' to 68'; East of Val Vista- Widen for Bike Lanes. Greenfield Road: Additional NB to WB Left Turn Lane. Additional NB Right Turn Lane. Higley Road: Additional NB to WB Left Turn Lane. Design Cost based on 5% of Construction Cost. Design Cost includes ADOT Project Administration Costs.
2) Greenfield and Higley Bridge Widening	\$6,435	\$128,692	\$135,127	Greenfield and Higley Road Bridges: Additional NB to WB Left Turn Lane.(50/50 Share) Design Cost based on 5% of Construction Cost.
3) Utility Crossings	\$36,309	\$726,183	\$762,492	New Sleeves for Future Use. Oak Street: 12" W & S. Thomas Road: 16" W. Val Vista: 12" W, 8" S, & 4" G. Greenfield: 8" S, & 4" G. Higley: 8" Sewer & 4" Gas. Design Cost based on 5% of Construction Cost.
4) ReClaimed Water Line	\$0	\$2,267,270	\$2,267,270	36" Reclaimed Waterline from Gilbert Road to Val Vista. 12" Reclaimed line from Val Vista to Higley Road. (Design was paid directly by COM to designer.)
Item 1-4 SubTotal:	\$51,906	\$3,305,375	\$3,357,281	
Item 1-4 SubTotal (from previous Sheet):	\$51,906	\$3,305,375	\$3,357,281	

JPA 02-153  
Exhibit A

COFA Log		\$364,214	\$364,214	CO No. 4: Upgrade of 12" W to 16" W on Higley Realigned Thomas(\$85,850) CO No. 6: Joint Trench Relocation (\$135,469.20) CO No. 7: UPS for Traffic Signals (\$41,176) CO No. 8: RWL Realignment at Val Vista & Thomas (\$51,990.45) CO No. 10: Greenfield Joint Trench Field Adjustments (\$4,355) CO No. 11: RWL Trench Stabilization at Chandler RM Washout ponds (\$19,777.50) CO No. 28: Provide Water Service for Irrigation on Higley Road (Future) (\$2,050) CO No. 36: Deeper Crossing of South Canal with RWL (\$11,295) CO No. 39: Video Detection System Mast Arm (\$2,506.12) CO No. 51: Re-establish 4" & 2" Services due to upgrade to 16" W on Higley (\$9,745)
Maintenance of Traffic Share	\$0	\$0	\$0	Maintenance of Traffic was calculated based on a percentage basis (0%) of the construction cost of the City's Items. (Negligible M & P of traffic for City's Items.)
Construction Surveying and Layout Share	\$0	\$22,811	\$22,811	Construction Surveying and Layout was calculated on a percentage basis (5.7% based on contractor's bid) of the construction cost of the City's Items.
Contractor Quality Control Share	\$0	\$18,534	\$18,534	Contractor Quality Control was calculated based on a percentage basis (5.7% based on contractor's bid) of the construction cost of the City's Items.
Mobilization Share	\$0	\$265,177	\$265,177	Mobilization was calculated based on a percentage basis (5.7% based on contractor's bid) of the construction cost of the City's Items.
<b>Subtotal</b>	<b>\$51,906</b>	<b>\$3,976,111</b>	<b>\$4,028,017</b>	
14% Construction Engineering	\$0	\$556,656	\$556,656	Construction Engineering was calculated based on a percentage basis (14%) of the subtotal of construction costs of the City's Items.
5% Engineering Administration	\$2,595	\$0	\$2,595	Engineering Administration was calculated based on a percentage basis (5%) of the design cost of the City's Items.
<b>Total</b>	<b>\$54,501</b>	<b>\$4,532,767</b>	<b>\$4,587,268</b>	

THOMAS ROAD

VAL VISTA DRIVE

SF 2021

Additional 6' Bike  
Lanes Left & Right

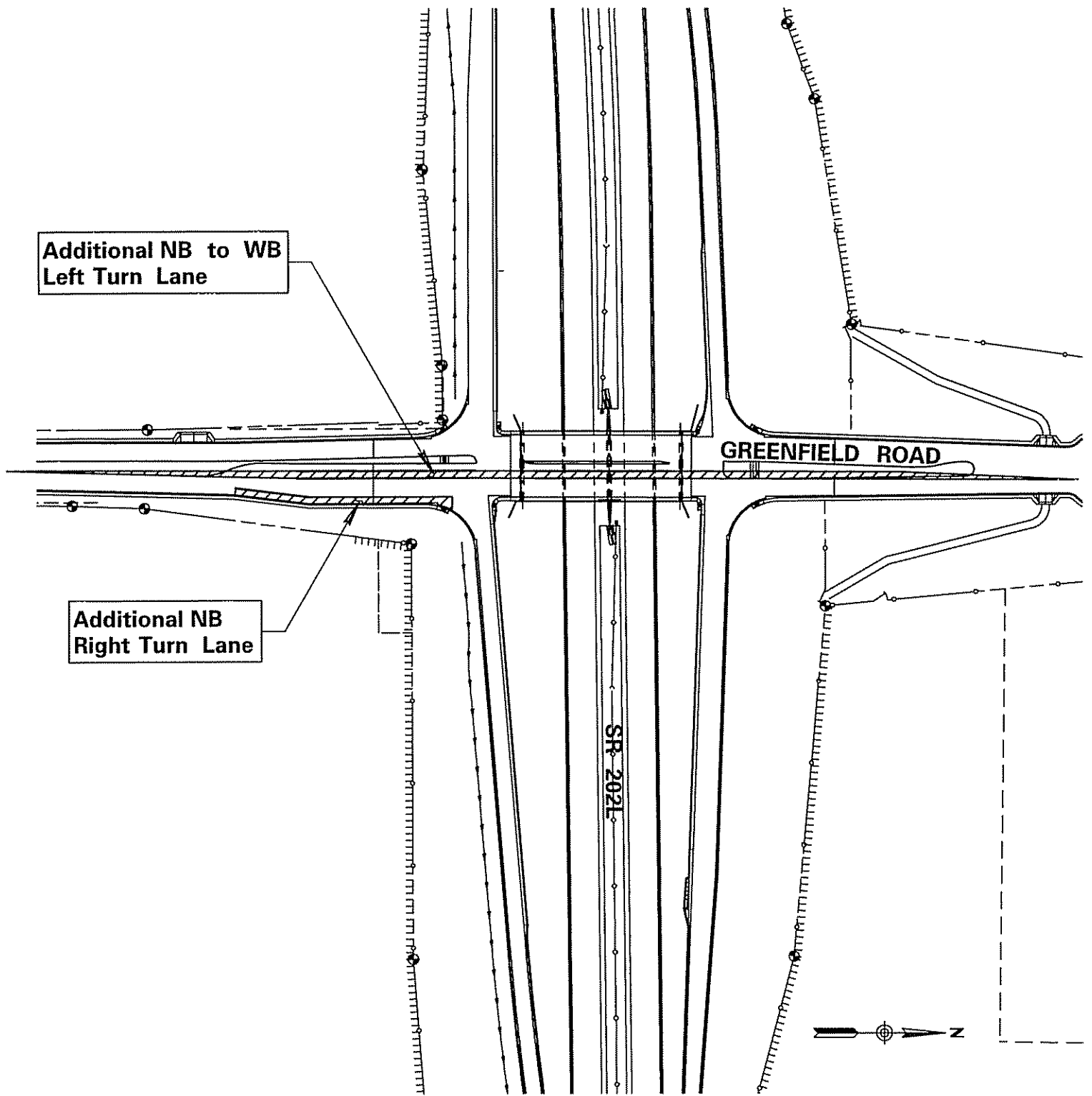


## THOMAS ROAD EAST OF VAL VISTA

 CITY OF MESA  
ENHANCEMENT ITEM

JPA 02-153  
Exhibit B - 1

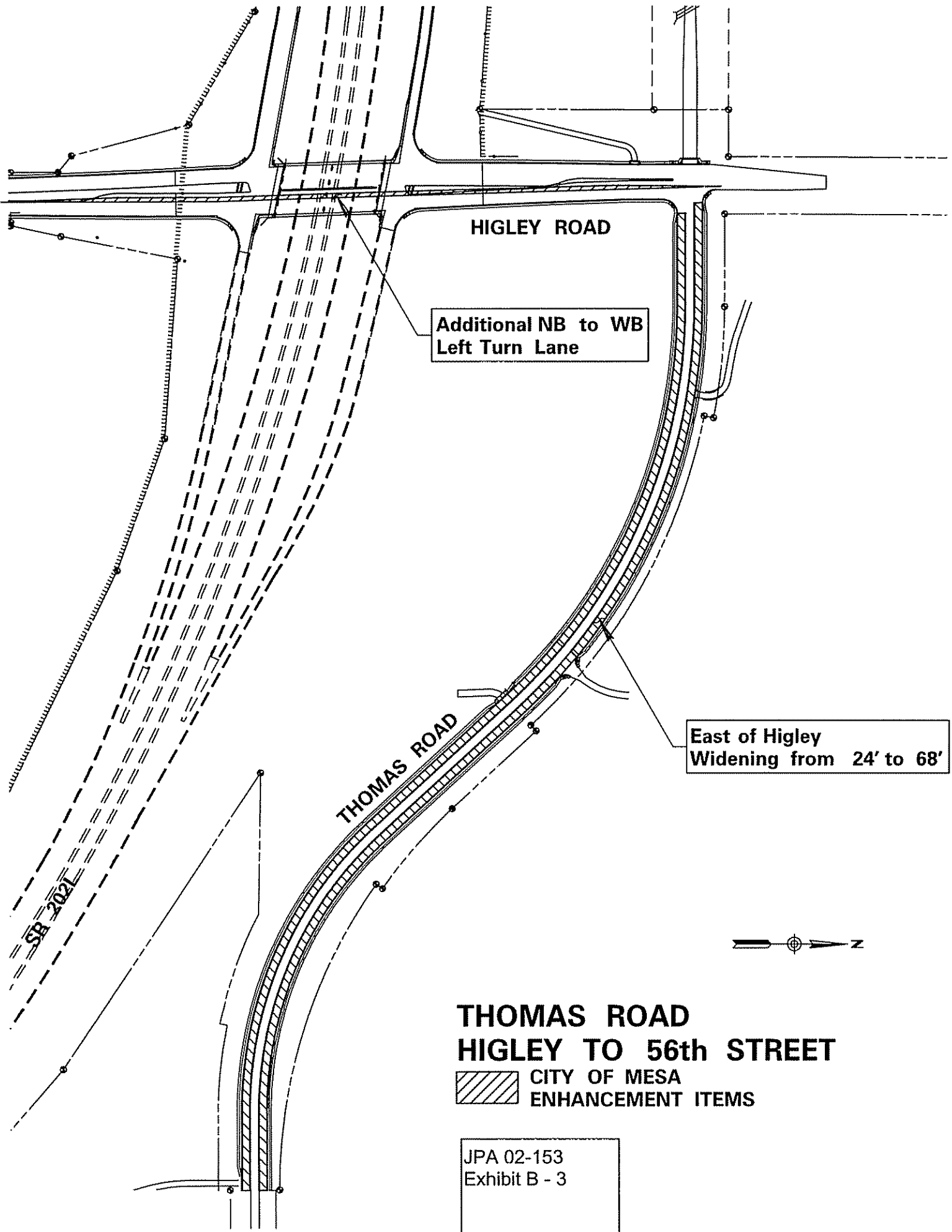
SOUTH CANAL



## GREENFIELD ROAD

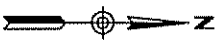
 CITY OF MESA  
ENHANCEMENT ITEMS

JPA 02-153  
Exhibit B - 2



Additional NB to WB  
Left Turn Lane

East of Higley  
Widening from 24' to 68'

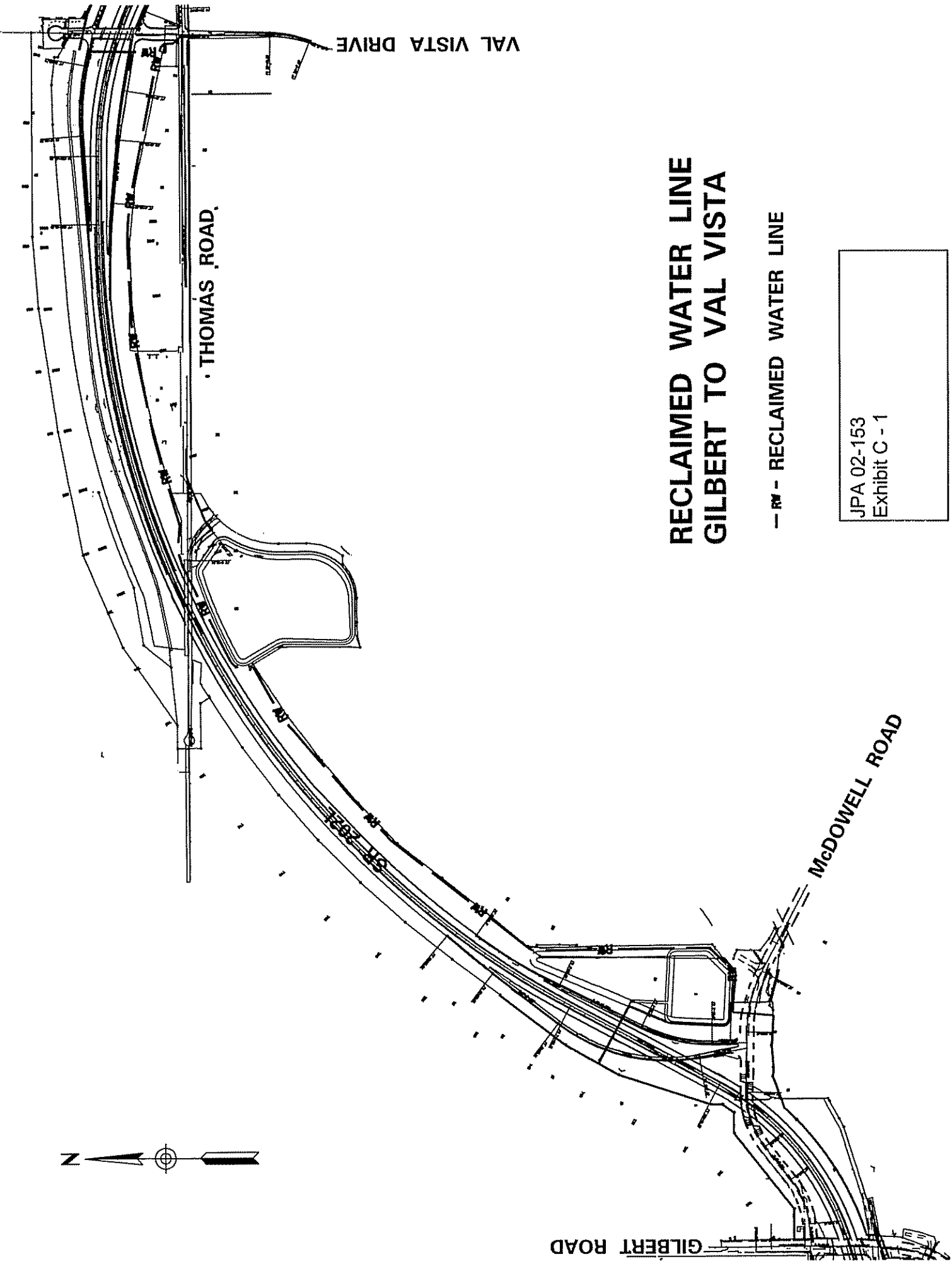


**THOMAS ROAD  
HIGLEY TO 56th STREET**



CITY OF MESA  
ENHANCEMENT ITEMS

JPA 02-153  
Exhibit B - 3



**RECLAIMED WATER LINE  
GILBERT TO VAL VISTA**

— R/W — RECLAIMED WATER LINE

JPA 02-153  
Exhibit C - 1

HIGLEY ROAD

# RECLAIMED WATER LINE VAL VISTA TO HIGLEY ROAD

— RW — RECLAIMED WATER LINE

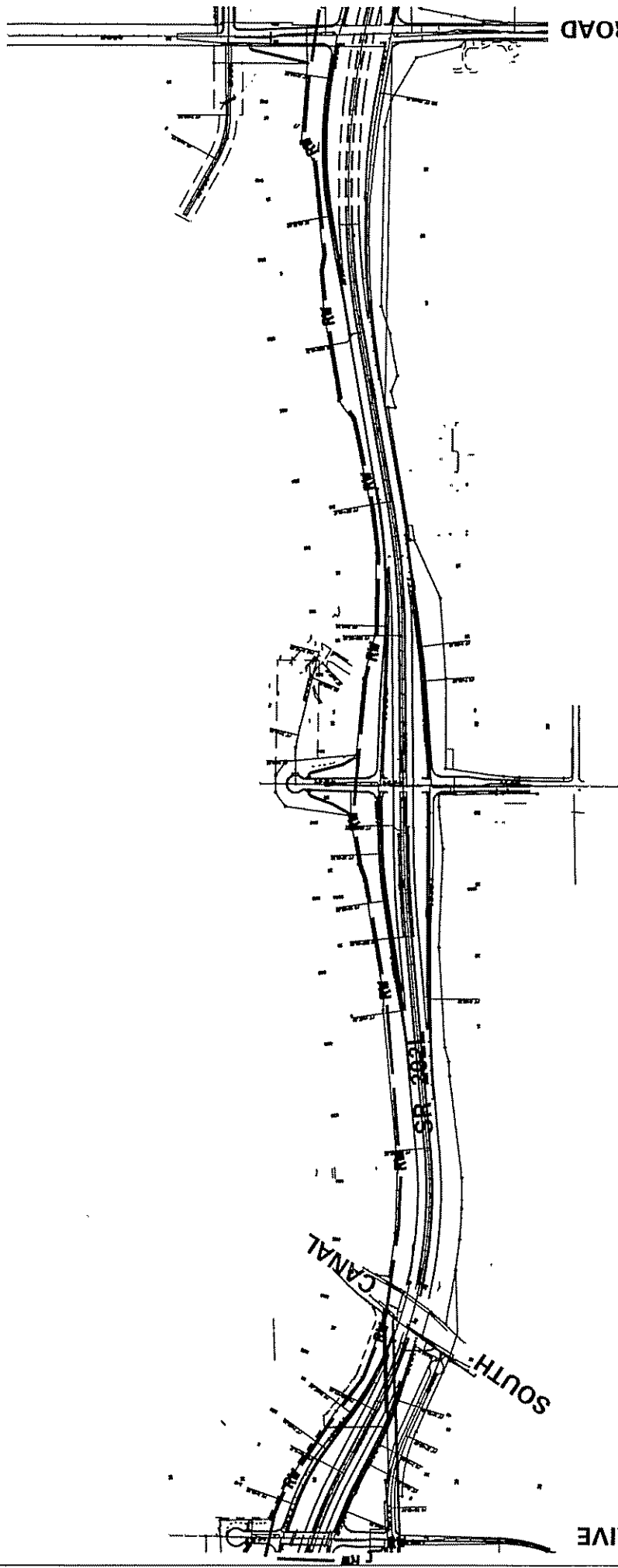
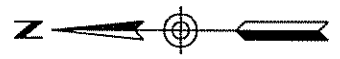
JPA 02-153  
Exhibit C - 2

GREENFIELD ROAD

SOUTH-  
CANAL

SR 2021

VAL VISTA DRIVE



RESOLUTION NO. 8227

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, ARIZONA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT BETWEEN THE STATE OF ARIZONA DEPARTMENT OF TRANSPORTATION AND THE CITY OF MESA FOR THE DESIGN AND CONSTRUCTION OF FREEWAY ENHANCEMENTS ALONG THE RED MOUNTAIN FROM GILBERT ROAD TO HIGLEY ROAD

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MESA, MARICOPA COUNTY, AS FOLLOWS:

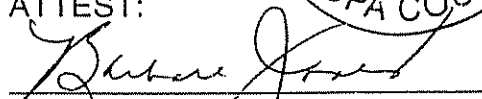
Section 1: That the cost sharing agreement between the State of Arizona Department of Transportation and the City of Mesa for the design and construction of the freeway enhancements along the Red Mountain Freeway from Gilbert Rd to Higley Rd (ADOT JPA No. 02-153); is hereby approved.

Section 2: That the City Manager, Michael T. Hutchinson, or his designated representative, is authorized and directed to execute the agreement on behalf of the City of Mesa, and the City Clerk is authorized and directed to attest to the signature of the City Manager or his authorized designated representative thereon.

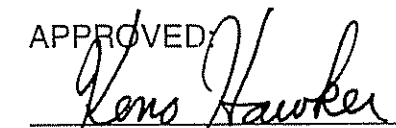
PASSED AND ADOPTED by the City Council of the City of Mesa, Maricopa County, Arizona, this 17th day of May, 2004.



ATTEST:

  
City Clerk

APPROVED:

  
Mayor



APPROVAL OF THE CITY OF MESA ATTORNEY

I have reviewed the above referenced intergovernmental agreement between the DEPARTMENT OF TRANSPORTATION, INTERMODAL TRANSPORTATION DIVISION, and the CITY OF MESA, an agreement among public agencies which, has been reviewed pursuant to A.R.S. section 11-951 through 11-954 and declare this agreement to be in proper form and within the powers and authority granted to the City under the laws of the State of Arizona. No opinion is expressed as to the authority of the State to enter into this agreement.

DATED this 18 day of May, 2004.

Debi Spivack

City Attorney



OFFICE OF THE ATTORNEY GENERAL  
STATE OF ARIZONA

TERRY GODDARD  
ATTORNEY GENERAL

CIVIL DIVISION  
TRANSPORTATION SECTION  
WRITER'S DIRECT LINE: 602.542.8855

**INTERGOVERNMENTAL AGREEMENT**  
**DETERMINATION**

A.G. Contract No. KR02-2053TRN (JPA 02-153), an Agreement between public agencies, has been reviewed pursuant to A.R.S. § 11-952, as amended, by the Undersigned Assistant Attorney General who has determined that it is in the proper form and is within the powers and authority granted to the State of Arizona.

No opinion is expressed as to the authority of the remaining Parties, other than the State or its agencies, to enter into said Agreement.

DATED: June 1, 2004

TERRY GODDARD  
Attorney General

A handwritten signature in cursive script that reads "Susan Davis". The signature is written in black ink and is positioned above the printed name of the signatory.

SUSAN E. DAVIS  
Assistant Attorney General  
Transportation Section